

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
)	
v.)	CASE NO. 3:08-CR-175
)	JUDGE PHILLIPS
)	
CLARK ALAN ROBERTS)	

MOTION FOR DOWNWARD DEPARTURE AND VARIANCE
PURSUANT TO THE SENTENCING GUIDELINES
AND 18 U.S.C. §§ 3553(a) and 3661

Comes the defendant, Clark Roberts, by and through counsel and pursuant to USSG §§ 1B1.4, 5H1.2, 5H1.5, 5H1.6, 5H1.11, 5K2.0, 5K2.20, and 18 U.S.C. §§ 3553(a) and 3661 and respectfully moves this court to depart and vary downward from the advisory Sentencing Guidelines range. In support thereof, counsel avers:

1. On December 9, 2010, Mr. Roberts was found guilty of theft of trade secrets, wire fraud, and wire fraud conspiracy.
2. The probation office has calculated Mr. Roberts' total offense level to be 9, his criminal history category to be I, and his advisory sentencing guidelines range to be 4 to 10 months incarceration.
3. A number of factors, individually and in combination, warrant a downward departure in the calculation of the advisory sentencing guidelines range and/or a downward variance from the guidelines sentence itself. The factors include:
 - A. Mr. Roberts' life and characteristics, including his social history, his good character, his employment record, and his contributions to his family, profession

and community are extraordinary and indicate he is not likely to commit any other offenses in the future.

- B. Mr. Roberts' offense was an aberration and represents a marked deviation from an otherwise law-abiding life.
 - C. The nature and circumstances of the offense do not warrant a sentence of incarceration.
 - D. A sentence of probation is sufficient to comply with the purposes of 18 U.S.C. § 3553(a)(2).
4. A memorandum is submitted in further support of this motion.

Respectfully submitted this 11th day of August, 2011.

RITCHIE, DILLARD, DAVIES & JOHNSON, P.C.

s/ W. THOMAS DILLARD
W.THOMAS DILLARD (BPR # 002020)
STEPHEN ROSS JOHNSON (BPR # 022140)
606 W. Main Street, Suite 300
Knoxville, TN 37902
(865) 637-0661
dillard@rddjlaw.com
Johnson@rddjlaw.com

Counsel for Clark Roberts

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. A copy of the foregoing will be served on all parties by electronic mail or regular U.S. mail.

s/ W. THOMAS DILLARD
606 W. Main Street, Suite 300
Knoxville, TN 37902
(865) 637-0661